

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JOSEPH BREITFELDER,
Plaintiff

vs

HAMILTON COUNTY SHERIFF
SIMON LEIS, et. al.,
Defendants

Case No. C-1-01-617
(Beckwith, J.)
(Hogan, M.J.)

ORDER

This matter is before the Court on Defendants' unopposed Motion for Contempt (Doc. 53).

On September 11, 2003, this Court ordered Plaintiff to pay to defense counsel \$250.00 as reimbursement of the physician's cancellation fee caused by Plaintiff's failure to appear at a scheduled IME appointment, without notice. (*See* Doc. 41). Plaintiff was also ordered to pay \$420 in attorney fees. (*Id.*). Plaintiff was therefore ordered to make payment to Defendants in the amount of \$670.00 by December 31, 2003. (*Id.*). Through their Motion for Contempt, Defendants now inform the Court that Plaintiff has failed to comply with this Court's Order. Plaintiff, for his part, has filed no response to Defendants' Motion for Contempt thus offering no explanation for his blatant disregard of this Court's order.

Sanctions may be implemented, at the Court's discretion, for failing to comply with a Court order under Fed. R. Civ. P. 37(b)(2)(A)-(E). This rule gives the court broad powers with respect to sanctions. These powers include the power to refuse a disobedient party's support or opposition of designated claims or defenses, the power to strike out pleadings, to dismiss actions, or to render default

judgment against the disobedient party, and the power to require the party failing to comply to pay reasonable expenses, including attorney's fees caused by the failure to comply with the order. *Id.* However, imposition of payment of attorney's fees is not done where the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust. *Id.*

In light of Plaintiff's failure to comply with this Court's previous order as well as his complete failure to offer an explanation for such, Plaintiff is ordered to pay to Defendants the previously ordered amount of \$670.00 as well as \$150.00 in additional attorney fees. Plaintiff shall make payment to Defendants in the new amount of \$820.00 by March 31, 2004. Failure to comply fully with this order will result in a recommendation to the District Court that Plaintiff be found in contempt of court and his claims be dismissed without prejudice.

IT IS THEREFORE ORDERED THAT:

- 1) Defendants' Motion for Contempt (Doc. 53) be GRANTED IN PART and DENIED IN PART consistent with the Court's decision herein.

SO ORDERED.

Date: 3/17/04

s/Timothy S. Hogan
Timothy S. Hogan
United States Magistrate Judge